

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

ROYA ZANDIEH,

Plaintiff,

v.

UNKNOWN,

Defendant.

No. C 12-6218 LHK (PR)

ORDER OF DISMISSAL

On December 7, 2012, Plaintiff, a California prisoner, filed a letter with the court regarding his medical condition which commenced this action. The same day, the Clerk notified Plaintiff that he had not paid the filing fee, nor had he filed an application to proceed *in forma pauperis* (“IFP”). On December 17, 2012, Plaintiff returned the Clerk’s deficiency notice indicating that he wished to have this action dismissed. (Docket No. 4.) Plaintiff may voluntarily dismiss if he files his notice before the opposing party serves either an answer or a motion for summary judgment. *See* Fed. R. Civ. P. 41(a)(1)(A)(i); *U.S. v. Real Property*, 545 F.3d 1134, 1145-46 (9th Cir. 2008) (noting that a plaintiff has an “absolute right” to dismiss his action “without prejudice” only before defendant serves an answer). Accordingly, this action is DISMISSED without prejudice. The Clerk shall terminate all pending motions and close the file.

IT IS SO ORDERED.

DATED: 1/9/13

  
LUCY H. KOH  
United States District Judge